

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 10, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 15, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2650

Introduced by Assembly Member Buchanan
(Coauthors: Assembly Members Carter, Portantino, Torres, and
Torrico)

February 19, 2010

An act to add Section 11362.768 to the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2650, as amended, Buchanan. Medical marijuana.

Existing law added by initiative, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a qualified patient, the qualified patient's primary caregiver, or an individual who provides assistance to the qualified patient or the qualified patient's primary caregiver, who possesses, cultivates, or distributes marijuana for the personal medical purposes of the qualified patient upon the written or oral recommendation or approval of a physician. Existing

statutory law requires the State Department of Public Health to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and establishes procedures under which a qualified patient with an identification card may use marijuana for medical purposes. Existing law regulates qualified patients, a qualified patient's primary caregiver, and individuals who provide assistance to the qualified patient or the qualified patient's primary caregiver, as specified. A violation of these provisions is generally a misdemeanor.

This bill would provide that no medical marijuana cooperative, collective, dispensary, operator, establishment, or provider authorized by law to possess, cultivate, or distribute medical marijuana and that has a storefront or mobile retail outlet which ordinarily requires a local business license shall be located within a 600-foot radius of any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, *except* as specified. The bill also would provide that local ordinances that regulate the location or establishment of these medical marijuana establishments, adopted prior to January 1, 2011, would not be preempted by its provisions; and that nothing in the bill shall prohibit ~~municipal jurisdictions~~ *a city, county, or city and county* from adopting ordinances that further restrict the location or establishment of these medical marijuana establishments. *The bill would express a legislative finding and declaration that establishing a uniform standard regulating the proximity of these medical marijuana establishments to schools is a matter of statewide concern and not a municipal affair and that, therefore, all cities and counties, including charter cities and charter counties, shall be subject to the provisions of the bill.* By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11362.768 is added to the Health and
- 2 Safety Code, to read:

1 11362.768. (a) This section shall apply to individuals specified
2 in subdivision (b) of Section 11362.765.

3 (b) No medical marijuana cooperative, collective, dispensary,
4 operator, establishment, or provider who possesses, cultivates, or
5 distributes medical marijuana pursuant to this article shall be
6 located within a 600-foot radius of a school.

7 (c) The distance specified in this section shall be the horizontal
8 distance measured in a straight line from the property line of the
9 school to the closest property line of the lot on which the medical
10 marijuana cooperative, collective, dispensary, operator,
11 establishment, or provider is to be located without regard to
12 intervening structures.

13 (d) This section shall not apply to a medical marijuana
14 cooperative, collective, dispensary, operator, establishment, or
15 provider that is also a licensed residential medical or elder care
16 facility.

17 (e) This section shall apply only to a medical marijuana
18 cooperative, collective, dispensary, operator, establishment, or
19 provider that is authorized by law to possess, cultivate, or distribute
20 medical marijuana and that has a storefront or mobile retail outlet
21 which ordinarily requires a local business license.

22 (f) Nothing in this section shall prohibit ~~municipal jurisdictions~~
23 *a city, county, or city and county* from adopting ordinances or
24 policies that further restrict the location or establishment of a
25 medical marijuana cooperative, collective, dispensary, operator,
26 establishment, or provider.

27 (g) Nothing in this section shall preempt local ordinances,
28 adopted prior to January 1, 2011, that regulate the location or
29 establishment of a medical marijuana cooperative, collective,
30 dispensary, operator, establishment, or provider.

31 (h) For the purposes of this section, “school” means any public
32 or private school providing instruction in kindergarten or grades
33 1 to 12, inclusive, *but does not include any private school in which*
34 *education is primarily conducted in private homes.*

35 *SEC. 2. The Legislature finds and declares that establishing*
36 *a uniform standard regulating the proximity of medical marijuana*
37 *cooperatives, collectives, dispensaries, operators, establishments,*
38 *or providers to schools is a matter of statewide concern and not*
39 *a municipal affair, as that term is used in Section 5 of Article XI*
40 *of the California Constitution. Therefore, this act shall apply to*

1 *all cities and counties, including charter cities and charter*
2 *counties.*

3 ~~SEC. 2.~~

4 SEC. 3. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.